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Board of Health Minutes 4/3/2013



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE BOARD OF HEALTH

Town of Arlington

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Board of Health Meeting Minutes **Wednesday, April 3, 2013** **Ground Floor Conference Room** **Arlington Senior Center** **5:30pm**

Board Members in Attendance: Dr. Marie Walsh Condon, Dr. Michael Fitzpatrick (Chair), Mr. Kenneth Kohlberg

Staff in Attendance: Christine Connolly, Director of Health and Human Services and James Feeney, Health Compliance Officer, Natasha Waden, Lead Health Compliance Officer.

Other: DJ Wilson, Tobacco Control Director, Public Health Liaison, Mass Municipal Association; Wesley Chin, Sub-regional tobacco control coordinator for Arlington, Belmont, Brookline, Newton and Watertown.

Public in attendance: John Waller, Socheol Sin, Musfiqur Rahman, Christina Dawson, Davinder Sharma, Paresch Patel, Prem Kumar, Maureen Stephens, Roseann Casazza, Emily Drazen, Xiu Ping Pan, Peter Zhing, Helene Falcon, Daria Rabkin, Georgia Rozanitis, Frederick Kalil, Veronica Biehl, Randy Batchelor, Denis Dettling Kalthofer, Ulrike Dettling, Richard Spinalli, Sabina Shaikh, Chip Hartranft, Peter (Debin) Zheng

The February 6, 2013 meeting minutes were tabled until the next meeting. The Board requested that revisions be made to the following areas: item XV, item XIX and XX.

Inspector Feeney stated he reviewed the Keeping of Hen's plan review application submitted by the residents and found it met the requirements. Feeney then stated the responses provided on the application were thoughtful and showed the applicants were experienced hen keepers from outside of Arlington, and he recommended approving the application. Dr. Fitzpatrick asked about marrying the photograph to the site plan provided in the Board of Health packet. Applicant Randy Batchelor indicated the stack of wood shown in the photograph corresponded to the proposed coop location. Dr.

Fitzpatrick asked if they would be constructing a coop, and Batchelor responded the hens were already housed in a coop at his mother's house and it would be transported to Arlington. Batchelor also indicated that he did construct the coop. Director Connolly asked if there was anyone present in the public to speak on the chicken application and Richard Spinalli identified himself as an abutter. Mr. Spinalli asked what would be done about the noise, especially in the early morning. Applicant Veronica Biehl stated the Town has a strict bylaw and that no roosters would be kept at the property. Biehl further explained the hens tend not to make noise in the morning hours and only get excited after laying an egg. Inspector Feeney instructed Spinalli he would be able to contact the Office for assistance if there were any issues. Mr. Spinalli then asked what would be done regarding the smell. Batchelor explained they had a plan in place for routine cleaning and maintenance to control the odor and it would not travel to Spinalli's house. The Board voted unanimously to approve the Application, and Feeney instructed the applicants they would receive the written decision in the mail.

Inspector Waden introduced DJ Wilson from the Massachusetts Municipal Association (MMA) and Wesley Chin from the Five Community Tobacco Collaborative. DJ Wilson explained that the MMA is an association that provides assistance to municipalities throughout the commonwealth as it relates to the creation of local laws and regulations. Waden then provided a brief summary to the Board informing them and the group that the proposed tobacco regulations for Arlington were model regulations created by the MMA. Further, Waden informed the Board that all edits requested at the previous meeting had been made. Waden also provided the Board with suggestions from a Selectperson and Wesley Chin. The suggestion from the Selectperson was to add language to the regulations which would clearly state other licensing agencies within the Town would be notified of any violations. The suggestion from Wesley Chin was to add language to the regulations restricting the sale of lighters and matches to minors. Dr. Walsh had a question about Section D. 2. b. (Required Signage) which states "The sale of nicotine delivery products to minors under 18 years of age is prohibited". Waden explained that under State Law establishments are required to post this language, but as outlined in Section D.2.c., additional signage is required to be posted. The additional signage must state that the sale of tobacco products in Arlington under the ages outlined in Section D.1 is illegal. Said notices will be provided to establishment by the Health Department. Lastly, Waden informed the Board of comments from Juliana Rice, Town Counsel in regards to capping and reducing the number of Tobacco and Nicotine Delivery Product Sales Permits. Waden explained that a new tobacco sales permit application had recently been submitted to the Office for consideration and that this prompted confusion as to how to process such a request prior to the adoption of these regulations and the effective date. Waden explained that the maximum number of permits was determined by the existing number of permits, which would reduce to 19 if the Board agrees to ban tobacco sales at health care institutes, such as pharmacies. The number does not take into consideration any new permits that could potentially be received during the time it would take for the regulations to take effect. Furthermore, a discussion regarding the reducing number of permits to 15 by 2018 was discussed. The Board was concerned about how this number was chosen and how it would be managed over five years. Waden agreed to work with Town Counsel on creating new language regarding both sections and will present it to the Board at the next meeting. Dr. Fitzpatrick thanked the public for attending the hearing and requested people to raise their hands and identify themselves if they would like to comment on the proposed regulations. The following is a summary of public comments: Georgia Rozanitis from Christo's Fruit Market requested clarification on the number 19, as she thought it pertained to the number of tobacco products that could be sold onsite. Dr. Walsh clarified that this number was referring to the maximum number of tobacco vendor permits. Musfiquir Rahman from Dagg's provided testimony against the proposed age restrictions for lighters and matches, claiming that people may purchase these for candles or BBQ purposes. He also elaborated by stating that a person is considered an adult at 18 years old and should be able to make their own decision about whether or not they want to smoke. Lastly, he stated his business is close to Cambridge and therefore people under 21 could go there to purchase tobacco products and he would lose customer business. Paresch Patel from Easy Convenience Store mentioned that he has single cigars for sale under \$2.00 that are only purchased by adults and by raising the age this will drive business to another community. He also stated that by packaging cigars it would increase smoking. Further he requested to know what the pipe tobacco and RYO machines have to do with youth access. DJ Wilson responded to this question stating that minors are notably more price sensitive than adults. He then went on to describe that by allowing commercial RYO machines, the cost of tobacco could potentially be sold for a lesser cost and become more available to minors. Georgia from Christos asked if there was any correlation between raising the age to purchase tobacco and convenient store robberies as it relates to stealing cigarettes. Neither DJ nor the Board was aware of any such information. DJ informed the Board that there were currently 56 cities and towns in the Commonwealth that have adopted variations of the model regulations and all are running smoothly. He also informed the Board that in the City of Boston there are 869 tobacco sales permits that follow similar regulations and to date there have only been 40 violations mostly due to confusion of the regulations. The last public comment was from the owner of 7 Star Grocery, Peter (Debin) Zheng who stated that matches are given to establishment owners for free and therefore they are not being sold, just distributed upon request.

Body work regulations:

Inspector Feeney presented the Board with an updated set of draft Regulations Governing the Practice of Bodywork. Feeney then introduced Cindy Banker from the American Organization for Bodywork Therapies of Asia (AOBTA). Cindy was contacted by Inspector Feeney and asked to attend the meeting in order to provide additional support in answering questions related to the field. Cindy explained that the AOBTA is no longer offering a national examination for bodywork and therefore the definition of certification in the draft regulations should be amended. Cindy also expressed that she thought the inclusion of liability insurance was important in the regulations. Dr. Fitzpatrick thanked the public for attending the hearing and requested people to raise their hands and identify themselves if they would like to comment on the proposed regulations. Ulrike Dettling from Arlington Reiki Association explained that prior to the State wide take over of massage licensing, Arlington had Bodywork and Massage Regulations that she thought worked well and thought the Board should revert to those rather than create new ones. Denis Dettling Kalthofer also of Arlington Reiki Association elaborated on the Town's previous regulations, specifically referencing the code of hygiene. He also expressed his concern that Reiki should not be regulated under the Bodywork Regulations because there is no manipulation of a person's body tissue during the procedure. A question regarding the requirement of TB testing was discussed. Cindy explained that the State does not require this for massage therapist. Dr. Fitzpatrick commented that he is also not required to have this as a dentist. Frederick Kalil from the Arlington Center spoke on behalf of the profession of Reflexology. He explained that in the State of Massachusetts there are only 45 professionals who practice Reflexology and the requirement of a national certificate is not common practice, only a State certificate has been required. Ulrike had additional comments regarding the proposed hours of operation, and the performance of bodywork in a private home and home offices. Ulrike stated that 7AM to 11PM is very late and she does not believe professionals work until that hour. Ulrike stated that unless there is a doctor's note she does not believe that bodywork therapist should be going to someone's home, nor should a therapist be allowed to work out of a home office. Helene Falcon from the Healing Center in Arlington stated there may be instances when a therapist may need to make a home visit, such as for a medically homebound patient, therefore this should be considered as part of the regulations. There was some discussion amongst the group about adding some language to the regulations regarding the therapist being able to effectively communicate with the inspectors during an inspection, as well as requiring proof of a high school degree. Dr. Fitzpatrick requested that a copy of the "old regulations" be provided to the Board for the next meeting and that further discussion would be had at the next meeting.

Inspector Feeney stated Arlington Restaurant and Diner was approaching the end of their contract with the consultant with only one audit remaining. Feeney reported the establishment had made significant progress, which was evident during the most recent inspections conducted by both the consultant and Maureen Lee. Feeney stated the owner has made some staffing changes, changes to the hours of operation and is planning upgrades at the establishment.

Inspector Feeney reported Mr. Caliendo has completed some work at the property, but that it was not all completed in a workman-like manner. Dr. Fitzpatrick agreed the work shown in the photographs provided in Board of Health packet was not acceptable. Inspector Feeney stated he is working on compiling all of the information and will be working with Town Counsel to file a complaint in Superior Court as soon as possible. Inspectors Waden and Feeney indicated they would be asking the Superior Court to order that Mr. Caliendo hire a licensed professional to complete the work.

Inspector Waden presented the Board with a sign that will be posted in various areas around spy pond. The sign was designed to inform people not to swim or wade in the water, not to eat the fish, as it could be contaminated with DDT and Chlordane, and to avoid contact with the water, as toxic algae may be present. The sign includes a color picture of what toxic algae may look like as well as pictures of the international symbols for no swimming, wading, or eating fish. Further, Waden informed the Board that the Massachusetts Department of Public Health is entering their last year of grant funding from CDC which allowed them to conduct testing of toxic algae levels at Spy Pond. Therefore, this summer appears to be the last that testing will be conducted by DPH. Waden reported that the office would be sending out pool and bathing beach renewal applications, as well as editing the application for recreational camps for children. Waden explained that the office is working on plan review for a new pool to be constructed on the old Symmes Hospital property (referred to as the Arlington 360 Project). Lastly, Waden informed the Board of the most recent meeting with the Middlesex Mosquito Control Project and that treating of the catch basins would likely begin in July. The office will continue to conduct inspections and treat abandoned pools as necessary throughout the season with mosquito dunks.

Restaurant updates: Waden reported that the following plan review applications for new food establishment have been approved and are awaiting a pre-operational inspection: Thai Moon, Frozland, Yummy's and Menotomy Grill and Tavern.

The following establishments are currently under review: Zocolo for a change of ownership, Bill House of Pizza- to take over Napoli Pizza, and Nicola Pizza for a change of ownership. Lastly, Anthony's East Side Deli is now open for business.

No public comment.

Meeting adjourned at 8:06pm